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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,388	07/06/2001	Keiichi Tomitsuka	B422-166	4297

26272 7590 10/22/2004

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EXAMINER

NGUYEN, CUONG H

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/900,388

Applicant(s)

TOMITSUKA ET AL.

Examiner

CUONG H. NGUYEN

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is the answer to the election submitted on 8/02/04 (claims 1-8, 15-20 were elected), which papers have been placed of record in the file.
2. Claims 1-8, 15-20 are pending in this application.

**Drawings**

3. This application has been filed with formal drawings (Figs. 1-6) which are acceptable by the examiner for examining purposes.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

4. Claims 1-8, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US Pat. 6,754,636).

As best understood, all above claims are drawn to very broad means of electronic communications, which are available before the time of invention.

Walker et al. teach a system (a medium is obvious application) (see Walker et al., Fig. 1A, ref. 100, Fig. 3A ref. 542, and fig.5 ref. 442), comprising:

- input means (i.e., a keyboard) for inputting requests;

- transmitting means (i.e., using email means to transmit information online);
- information acquiring means (i.e., a microprocessor of Walker's server get data from a storage location/database).
- Claims 15-17, and 18-20 are method claims and product-by-process claims; and for process-by-product claims, they are determined by product as a final result. They are obvious with Walker et al.'s reference.

It would have been obvious to one of ordinary skill in the art to implement Walker et al.'s idea to use their system/structures for purchase or picking up of goods because their application uses Internet communication for user's conveniences, and that can be applied to many applications.

Therefore, the cited references read-on the claimed languages.

In interpretation of claims' weights of these claims' limitations, please refer to Ex parte **Masham**, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987), In re **Kuehl**, 177 USPQ 250 (CCPA 1973), **ex parte Pfeiffer**, 1962 C.D. 408 (1961), and In re **Thorpe**, 227 USPQ 964 (Fed. Cir. 1985).

A claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a

prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. Ex parte **Masham**, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987)

**Conclusion**

5. Claims 1-8, 15-20 are not patentable.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose number is 703-305-4553. The examiner can normally be reached on 7am-330 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Thomas G. Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

*Cuong H. Nguyen*

*CHN*  
CUONG H. NGUYEN  
Primary Examiner  
Art Unit 3661